



February 13, 2009

## HOUSE BILL No. 1084

DIGEST OF HB 1084 (Updated February 4, 2009 1:54 pm - DI 97)

**Citations Affected:** IC 5-10; IC 16-39; IC 27-8; IC 27-13.

**Synopsis:** Out of country health care. Prohibits encouraging or requiring health care treatment outside the United States as a condition of third party health coverage. Prohibits a health coverage provider or a health care provider from causing an individual's medical records to be sent outside the United States without express written permission except in certain circumstances.

**Effective:** July 1, 2009.

**Fry**

January 7, 2009, read first time and referred to Committee on Insurance.  
February 12, 2009, amended, reported — Do Pass.

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HB 1084—LS 6351/DI 97+



February 13, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1084

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-10-8-16 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2009]: **Sec. 16. (a) As used in this section, "covered individual"**  
4 **means an individual who is entitled to coverage under a state**  
5 **employee health plan.**

6 (b) As used in this section, "state employee health plan" means  
7 a:

8 (1) self-insurance program established under section 7(b) of  
9 this chapter; or

10 (2) contract with a prepaid health care delivery plan that is  
11 entered into or renewed under section 7(c) of this chapter;  
12 to provide group health coverage.

13 (c) A state employee health plan shall not encourage or require,  
14 as a condition of coverage, a covered individual to receive health  
15 care services in a location outside the United States.

16 (d) A state employee health plan shall not cause a covered  
17 individual's medical records to be sent outside the United States

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without the express written consent of the covered individual or the covered individual's representative. However, express written consent is not required under this subsection if the covered individual is in a situation in which:

- (1) a threat to the covered individual's life or health exists;
- (2) care or treatment is required to alleviate the threat;
- (3) the covered individual is unable to provide express written consent; and
- (4) the covered individual's representative is unavailable.

SECTION 2. IC 16-39-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This article does not prohibit a provider from obtaining a patient's health records from another provider without the patient's consent if the health records are needed to provide health care services to the patient.

(b) A provider shall not cause a patient's health records to be sent outside the United States without the express written consent of the patient or the patient's representative. However, express written consent is not required under this subsection if the patient is in a situation in which:

- (1) a threat to the patient's life or health exists;
- (2) care or treatment is required to alleviate the threat;
- (3) the patient is unable to provide express written consent; and
- (4) the patient's representative is unavailable.

SECTION 3. IC 27-8-25 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 25. Health Care Outside the United States**

**Sec. 1.** As used in this chapter, "insured" means an individual who is entitled to coverage under a policy of accident and sickness insurance.

**Sec. 2.** As used in this chapter, "insurer" means an insurer that issues or delivers a policy of accident and sickness insurance.

**Sec. 3.** As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1.

**Sec. 4.** An insurer shall not encourage or require, as a condition of coverage, an insured to receive health care services outside the United States.

**Sec. 5.** An insurer shall not cause an insured's medical records to be sent outside the United States without the express written consent of the insured or the insured's representative. However, express written consent is not required under this subsection if the

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insured is in a situation in which:

- (1) a threat to the insured's life or health exists;
- (2) care or treatment is required to alleviate the threat;
- (3) the insured is unable to provide express written consent;
- and
- (4) the insured's representative is unavailable.

SECTION 4. IC 27-13-37.3 IS ADDED TO THE INDIANA CODE  
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2009]:

**Chapter 37.3. Health Care Outside the United States**

**Sec. 1. A health maintenance organization shall not encourage or require, as a condition of coverage, an enrollee to receive health care services outside the United States.**

**Sec. 2. A health maintenance organization shall not cause an enrollee's medical records to be sent outside the United States without the express written consent of the enrollee or the enrollee's representative. However, express written consent is not required under this subsection if the enrollee is in a situation in which:**

- (1) a threat to the enrollee's life or health exists;
- (2) care or treatment is required to alleviate the threat;
- (3) the enrollee is unable to provide express written consent;
- and
- (4) the enrollee's representative is unavailable.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1084, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 1, delete "." and insert **"or the covered individual's representative. However, express written consent is not required under this subsection if the covered individual is in a situation in which:**

- (1) a threat to the covered individual's life or health exists;**
- (2) care or treatment is required to alleviate the threat;**
- (3) the covered individual is unable to provide express written consent; and**
- (4) the covered individual's representative is unavailable.**

SECTION 2. IC 16-39-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This article does not prohibit a provider from obtaining a patient's health records from another provider without the patient's consent if the health records are needed to provide health care services to the patient.

**(b) A provider shall not cause a patient's health records to be sent outside the United States without the express written consent of the patient or the patient's representative. However, express written consent is not required under this subsection if the patient is in a situation in which:**

- (1) a threat to the patient's life or health exists;**
- (2) care or treatment is required to alleviate the threat;**
- (3) the patient is unable to provide express written consent; and**
- (4) the patient's representative is unavailable."**

Page 2, line 18, delete "." and insert **"or the insured's representative. However, express written consent is not required under this subsection if the insured is in a situation in which:**

- (1) a threat to the insured's life or health exists;**
- (2) care or treatment is required to alleviate the threat;**
- (3) the insured is unable to provide express written consent; and**
- (4) the insured's representative is unavailable."**

Page 2, line 28, delete "." and insert **"or the enrollee's representative. However, express written consent is not required under this subsection if the enrollee is in a situation in which:**

- (1) a threat to the enrollee's life or health exists;**
- (2) care or treatment is required to alleviate the threat;**

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**(3) the enrollee is unable to provide express written consent;  
and**

**(4) the enrollee's representative is unavailable."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1084 as introduced.)

FRY, Chair

Committee Vote: yeas 6, nays 5.

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